

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



February 10, 2014

Brian K. Cherry
Vice President, Regulation and Rates
Pacific Gas and Electric Company
77 Beale Street, Mail Code B10C
P.O. Box 770000
San Francisco, CA 94177

Subject: PG&E's Advice Letter 4250-E and Office of Ratepayer Advocates' Protest

Dear Mr. Cherry:

On July 8, 2013, Pacific Gas & Electric (PG&E) filed Advice Letter, 4250-E, notifying the CPUC that PG&E Corporation exercised its warrant rights in SolarCity Corporation (SolarCity). CPUC's Office of Ratepayer Advocates (ORA) requested that Energy Division (ED) extend the Advice Letter protest period, in order to allow ORA time to receive data requested from PG&E related to this Advice Letter. Energy Division and PG&E agreed to extend the protest period. After being granted an extension of the protest period, ORA filed a protest on October 31, 2013. Then PG&E requested an extension of the reply period. After being granted an extension of the reply period, PG&E filed a reply on November 20, 2013. In addition, SolarCity filed a "reply." While SolarCity is not a party to this Advice Letter, ED staff took SolarCity's arguments into consideration, as they were a uniquely interested stakeholder with pertinent information.

As a reminder, PG&E Corporation was authorized by the CPUC to hold warrant rights in SolarCity, pursuant to Resolution G-3461 in 2012 and Advice Letters 3182-G/3789-E and 3170-G-A/3763-E-A. PG&E Corporation was authorized to hold these warrant rights which allowed it to acquire an equity interest in SolarCity that currently represents about two percent of SolarCity's outstanding equity. Resolution G-3461 and associated Advice Letters also found that while PG&E's warrant rights amounted to the equivalent of an ownership stake in SolarCity, they did not rise to the five percent ownership threshold level, required to impart affiliate status under the first test of Rule I.A of the Affiliate Transaction Rules.¹ Nonetheless, the Commission was concerned about PG&E Corporation's holding of warrant rights creating "a commonality of interest between PG&E Corporation and SolarCity Corp."² Therefore, G-3461 required PG&E to file an advice letter if and when it exercised its warrant rights in SolarCity.³

¹ Res. G-3461, p. 18-20, 25.

² *Id.* at 18-19. The CPUC's Resolution went on to explain that "viewed in tandem with PG&E's role as [California Solar Initiative] Program Administrator...what becomes clear is that PG&E has a mechanism through which it can further the interests of SolarCity Corp., and thereby enhance the value of PG&E Corporation's warrant rights holding. *Id.*

³ *Id.* at 50.

ORA's protest to this Advice Letter recommends, among other things, that staff find SolarCity to be an affiliate under the third test laid out in Rule I.A. of the Affiliate Transaction Rules—arguing PG&E has a “substantial financial interest exercised through means other than ownership.”⁴ However, in G-3461 the Commission declined to examine whether SolarCity was an affiliate of PG&E under the third test because it decided instead, to audit the relationship between SolarCity and PG&E as part of the Affiliate Transaction Rules audit.⁵ Therefore, until the results of the audit are complete, it would be premature for staff to re-examine SolarCity's affiliate status under the third test. Of course, if a protesting party showed actual evidence that PG&E gave preferential treatment to SolarCity, staff would be inclined to re-examine SolarCity's affiliate status. As it is, no such evidence has been shown.

Energy Division is currently auditing PG&E's compliance with the Affiliate Transaction Rules, as per G-3461. The results should be made public around the end of June 2014. If the audit finds evidence of PG&E providing preferential treatment to SolarCity, staff will recommend appropriate regulatory action to the Commission. Likewise, ORA will be able to use the results of this audit to propose appropriate action.

ORA's protest also raises important issues regarding potential past preferential treatment of SolarCity by PG&E.⁶ However, ORA has presented no evidence that PG&E has given preferential treatment to SolarCity. Therefore, staff believes PG&E Corporation should be permitted to exercise its already-approved warrant rights to purchase approximately two percent of outstanding shares of SolarCity. Since G-3461 allowed PG&E to hold these warrant rights, absent a showing of actual preferential treatment of SolarCity by PG&E, it would be inappropriate for the Commission to prohibit PG&E from exercising its already-approved warrant rights.

After carefully considering the arguments of, and consulting with, ORA, PG&E, and SolarCity, Energy Division hereby deems Advice Letter 4250-E effective on July 8, 2013, notwithstanding the protest of ORA.

Sincerely,



Edward Randolph
Director, Energy Division

Cc: ED Tariff Unit; Igor Grinberg (PG&E); PGETariffs@pge.com; Michael Campbell (ORA); Elise Torres (ORA); Sanjay Ranchod (SolarCity).

⁴ Protest, p. 10.

⁵ Res. G-3461, p. 19.

⁶ Protest, p. 7-8 and Confidential Attachment, p. 1-3.

July 8, 2013

Advice 4250-E

(Pacific Gas and Electric Company ID U 39 E)

Public Utilities Commission of the State of California

Subject: Notification of Warrant Exercise as Required by Resolution G-3461**Purpose**

In accordance with Ordering Paragraph (“OP”) 9 of Resolution (“Res.”) G-3461, dated June 21, 2012, Pacific Gas and Electric Company (“PG&E”) hereby notifies the California Public Utilities Commission (“CPUC” or “Commission”) of PG&E Corporation’s exercise of all of its outstanding warrants for the purchase of shares of common stock of SolarCity Corporation (“SolarCity”) on May 8, 2013.

Background

Res. G-3461 approved, subject to certain conditions specified therein¹, four Advice Letters (“AL”) filed by PG&E to notify the CPUC of the creation of new PG&E affiliates as required by the CPUC’s Affiliate Transaction Rules (“the Rules”), and to demonstrate to the CPUC that there were adequate procedures in place to ensure compliance with the Rules. PG&E noted in two of these advice letters, AL 3182-G/3789-E and AL 3170-G-A/3763-E-A, that separate from the other transactions discussed therein, PG&E’s holding company, PG&E Corporation, also held warrant rights allowing it to acquire an equity interest in SolarCity representing about 2 percent of SolarCity’s outstanding equity. Res. G-3461 found that PG&E’s warrant rights holdings in SolarCity were the equivalent of an ownership stake in SolarCity, but that they did not rise to the level required to impart affiliate status to SolarCity under Rule 1.A of the Rules.²

On May 8, 2013, PG&E Corporation exercised all of its outstanding warrants for the purchase of SolarCity equity, paying an aggregate of \$8,033,904.10 for a total of 1,485,010 shares of common stock of SolarCity. These shares represent approximately 2 percent of SolarCity’s current outstanding equity.

¹ Res. G-3461, p. 1.

² Res. G-3461, p. 18-19, p. 25, and OP 5.

Continued Compliance with the Affiliate Transaction Rules

The interactions between PG&E, the utility, and SolarCity remain limited to PG&E's role as Program Administrator for the California Solar Initiative, as described in AL 3182-G/3789-E and AL 3170-G-A/3763-E-A, and the measures described therein which ensure the avoidance of preferential treatment of participants in the California Solar Initiative program remain in place. The description of PG&E Corporation's warrant rights in SolarCity, its solar investments and the measures it has implemented to ensure compliance with the rules as more fully described in AL 3182-G/3789-E and AL 3170-G-A/3763-E-A, are incorporated herein by reference. PG&E's most recent Affiliate Transaction Rules Compliance Plan, which was filed with the Commission on June 30, 2013 as AL 3396-G/4244-E, is also incorporated herein by reference.

Given that the conversion of PG&E Corporation's warrant rights to a 2 percent common stock interest in SolarCity does not change in any respect the interactions with or relationship between PG&E and SolarCity as described in AL 3182-G/3789-E and AL 3170-G-A/3763-E-A, PG&E concludes that the resulting common stock ownership interest, remaining well below the 5 percent threshold set forth in the first test of Rule 1.A, does not confer affiliate status on SolarCity.

Additional Information

No unusual or unique circumstances exist that would require special Affiliate Transactions Rule implementation measures.

Questions regarding this affiliate should be addressed to Megan Janis, Director, Compliance and Ethics at (415) 973-8190.

This filing will not increase any other rate or charge, cause the withdrawal of service, or conflict with any rate schedule or rule.

Protests

Anyone wishing to protest this filing may do so by letter sent via U.S. mail, facsimile or E-mail, no later than July 29, 2013, which is 21³ days after the date of this filing. Protests must be submitted to:

³ The 20-day protest period concludes on a weekend, therefore, PG&E is moving this date to the following business day.

CPUC Energy Division
ED Tariff Unit
505 Van Ness Avenue, 4th Floor
San Francisco, California 94102

Facsimile: (415) 703-2200
E-mail: EDTariffUnit@cpuc.ca.gov

Copies of protests also should be mailed to the attention of the Director, Energy Division, Room 4004, at the address shown above.

The protest shall also be sent to PG&E either via E-mail or U.S. mail (and by facsimile, if possible) at the address shown below on the same date it is mailed or delivered to the Commission:

Brian K. Cherry
Vice President, Regulatory Relations
Pacific Gas and Electric Company
77 Beale Street, Mail Code B10C
P.O. Box 770000
San Francisco, California 94177

Facsimile: (415) 973-7226
E-mail: PGETariffs@pge.com

Any person (including individuals, groups, or organizations) may protest or respond to an advice letter (General Order 96-B, Section 7.4). The protest shall contain the following information: specification of the advice letter protested; grounds for the protest; supporting factual information or legal argument; name, telephone number, postal address, and (where appropriate) e-mail address of the protestant; and statement that the protest was sent to the utility no later than the day on which the protest was submitted to the reviewing Industry Division (General Order 96-B, Section 3.11).

Effective Date

PG&E requests that this Tier 1 advice filing become effective on July 8, 2013, which is the date of filing.

Notice

In accordance with General Order 96-B, Section IV, a copy of this advice letter is being sent electronically and via U.S. mail to parties shown on the attached list and the parties on the service list for A.09-02-019, R.05-10-030, R.08-03-008, and R.10-05-004. Address changes to the General Order 96-B service list should be directed to PG&E at email address PGETariffs@pge.com. For changes to any other service list, please

contact the Commission's Process Office at (415) 703-2021 or at Process_Office@cpuc.ca.gov. Send all electronic approvals to PGETariffs@pge.com. Advice letter filings can also be accessed electronically at: <http://www.pge.com/tariffs>

A handwritten signature in dark ink that reads "Brian Cherry / IG". The signature is written in a cursive, flowing style.

Vice President, Regulatory Relations

Attachments

CALIFORNIA PUBLIC UTILITIES COMMISSION

ADVICE LETTER FILING SUMMARY ENERGY UTILITY

MUST BE COMPLETED BY UTILITY (Attach additional pages as needed)

Company name/CPUC Utility No. **Pacific Gas and Electric Company (ID U39 E)**

Utility type:

☒ ELC

☐ GAS

☐ PLC

☐ HEAT

☐ WATER

Contact Person: Igor Grinberg

Phone #: (415) 973-8580

E-mail: ixg8@pge.com and PGETariffs@pge.com

EXPLANATION OF UTILITY TYPE

ELC = Electric

GAS = Gas

PLC = Pipeline

HEAT = Heat

WATER = Water

(Date Filed/ Received Stamp by CPUC)

Advice Letter (AL) #: **4250-E**

Tier: **1**

Subject of AL: **Notification of Warrant Exercise As Required by Resolution G-3461**

Keywords (choose from CPUC listing): Compliance, Affiliate

AL filing type: ☐ Monthly ☐ Quarterly ☐ Annual ☒ One-Time ☐ Other _____

If AL filed in compliance with a Commission order, indicate relevant Decision/Resolution #: Resolution G-3461

Does AL replace a withdrawn or rejected AL? If so, identify the prior AL: Not applicable

Summarize differences between the AL and the prior withdrawn or rejected AL: _____

Is AL requesting confidential treatment? If so, what information is the utility seeking confidential treatment for:

Confidential information will be made available to those who have executed a nondisclosure agreement: ☐ Yes ☒ No

Name(s) and contact information of the person(s) who will provide the nondisclosure agreement and access to the confidential information: _____

Resolution Required? ☐ Yes ☒ No

Requested effective date: **July 8, 2013**

No. of tariff sheets: N/A

Estimated system annual revenue effect (%): N/A

Estimated system average rate effect (%): N/A

When rates are affected by AL, include attachment in AL showing average rate effects on customer classes (residential, small commercial, large C/I, agricultural, lighting).

Tariff schedules affected: N/A

Service affected and changes proposed: N/A

Pending advice letters that revise the same tariff sheets: N/A

Protests, dispositions, and all other correspondence regarding this AL are due no later than 21¹ days after the date of this filing, unless otherwise authorized by the Commission, and shall be sent to:

California Public Utilities Commission

Energy Division

EDTariffUnit

505 Van Ness Ave., 4th Flr.

San Francisco, CA 94102

E-mail: EDTariffUnit@cpuc.ca.gov

Pacific Gas and Electric Company

Attn: Brian K. Cherry

Vice President, Regulatory Relations

77 Beale Street, Mail Code B10C

P.O. Box 770000

San Francisco, CA 94177

E-mail: PGETariffs@pge.com

¹ The 20-day protest period concludes on a weekend, therefore, PG&E is moving this date to the following business day.

**PG&E Gas and Electric
Advice Filing List
General Order 96-B, Section IV**

1st Light Energy	Douglass & Liddell	Occidental Energy Marketing, Inc.
AT&T	Downey & Brand	OnGrid Solar
Alcantar & Kahl LLP	Ellison Schneider & Harris LLP	Pacific Gas and Electric Company
Anderson & Poole	G. A. Krause & Assoc.	Praxair
BART	GenOn Energy Inc.	Regulatory & Cogeneration Service, Inc.
Barkovich & Yap, Inc.	GenOn Energy, Inc.	SCD Energy Solutions
Bartle Wells Associates	Goodin, MacBride, Squeri, Schlotz & Ritchie	SCE
Bear Valley Electric Service	Green Power Institute	SDG&E and SoCalGas
Braun Blaising McLaughlin, P.C.	Hanna & Morton	SPURR
CENERGY POWER	In House Energy	San Francisco Public Utilities Commission
California Cotton Ginners & Growers Assn	International Power Technology	Seattle City Light
California Energy Commission	Intestate Gas Services, Inc.	Sempra Utilities
California Public Utilities Commission	Kelly Group	SoCalGas
Calpine	Linde	Southern California Edison Company
Casner, Steve	Los Angeles Dept of Water & Power	Spark Energy
Center for Biological Diversity	MAC Lighting Consulting	Sun Light & Power
City of Palo Alto	MRW & Associates	Sunshine Design
City of San Jose	Manatt Phelps Phillips	Tecogen, Inc.
Clean Power	Marin Energy Authority	Tiger Natural Gas, Inc.
Coast Economic Consulting	McKenna Long & Aldridge LLP	TransCanada
Commercial Energy	McKenzie & Associates	Utility Cost Management
County of Tehama - Department of Public Works	Modesto Irrigation District	Utility Power Solutions
Crossborder Energy	Morgan Stanley	Utility Specialists
Davis Wright Tremaine LLP	NLine Energy, Inc.	Verizon
Day Carter Murphy	NRG Solar	Water and Energy Consulting
Defense Energy Support Center	Nexant, Inc.	Wellhead Electric Company
Dept of General Services	North America Power Partners	Western Manufactured Housing Communities Association (WMA)